

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MARCH 18, 2009**

C-1 Call to Order / Roll Call - N/A

C-2 Announcement of Closed Session - N/A

C-3 Adjourn to Closed Session - N/A

C-4 Return to Open Session / Disclosure of Action - N/A

A. Call to Order / Roll call

The Regular City Council meeting of March 18, 2009, was called to order by Mayor Hansen at 7:02 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Associate Pastor Dwight Friesen, Vinewood Community Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards

a) Presentation of Firefighter of the Year Plaque to Fire Captain Michael Lair (FD)

Fire Chief Mike Pretz presented the Firefighter of the Year plaque to Fire Captain Michael Lair.

D-2 Proclamations

a) Arbor Day (PW)

Mayor Hansen presented a proclamation to George Bradley, Streets and Drainage Manager, along with several volunteers, proclaiming Saturday, April 4, 2009, as "Arbor Day" in the City of Lodi.

b) National Boys and Girls Club Week

Mayor Hansen presented a proclamation to Richard Jones with the Lodi Boys and Girls Club proclaiming the week of March 22 – 28, 2009, as "National Boys and Girls Club Week" in the City of Lodi.

D-3 Presentations - None

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Johnson made a motion, second by Council Member Mounce, to approve the

following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$6,571,339.86 (FIN)

Claims were approved in the amount of \$6,571,339.86.

E-2 Approve Minutes (CLK)

The minutes of March 3, 2009 (Shirtsleeve Session) and March 4, 2009 (Regular Meeting) were approved as written.

E-3 Accept the Quarterly Investment Report as Required by Senate Bill 564 (CM)

Accepted the quarterly investment report as required by Senate Bill 564.

E-4 Adopt Resolution Approving Contract Addendum with Dyett and Bhatia, Urban and Regional Planners, to Prepare the Housing Element of the General Plan in the amount of \$69,750 (CD)

In response to Council Member Mounce, Interim Community Development Director Rad Bartlam stated the previous consultant was Cotton and Bridges, which was acquired by a larger firm a couple of years ago. Mr. Bartlam stated as he recalls the 2002-03 price was more and he will research and forward that information to the City Council.

Council Member Mounce made a motion, second by Mayor Pro Tempore Katzakian, to adopt Resolution No. 2009-29 approving the contract addendum with Dyett and Bhatia, Urban and Regional Planners, to prepare the housing element of the General Plan in the amount of \$69,750.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-5 Receive Report Regarding Final Costs for the November 4, 2008, General Municipal Election (CLK)

Received report regarding final costs for the November 4, 2008, General Municipal Election.

E-6 Adopt Resolution Certifying the Election Results of the March 3, 2009, Special Municipal Election Pertaining to Measure W and Notify County Officials and Taxing Agencies (CLK)

Adopted Resolution No. 2009-28 certifying the election results of the March 3, 2009, Special Municipal Election pertaining to Measure W and notify County officials and taxing agencies.

- E-7 Set Public Hearing for April 1, 2009, to Introduce Ordinance Amending Chapter 13.20, "Electrical Service," by Adding a New Section 13.20.315, Titled "Schedule EDR (Economic Development Rates)" (EUD).

Set public hearing for April 1, 2009, to introduce ordinance amending Chapter 13.20, "Electrical Service," by adding a new Section 13.20.315 titled, "Schedule EDR (Economic Development Rates)."

- E-8 Set Public Hearing for April 1, 2009, to Approve the Draft 2009-14 Consolidated Plan and Public Participation Plan and the Draft 2009-10 Action Plan for the Community Development Block Grant Program (CD).

Set public hearing for April 1, 2009, to approve the Draft 2009-14 Consolidated Plan and Public Participation Plan and the Draft 2009-10 Action Plan for the Community Development Block Grant Program.

- F. Comments by the Public on Non-Agenda Items THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Robin Rushing spoke in regard to his concerns about the Wal-Mart public hearing last week and allowing the attorney for Browman Development to speak under public comments and not following the decision of the Planning Commission.

- G. Comments by the City Council Members on Non-Agenda Items

Council Member Mounce reported on her attendance at the League of California Cities quarterly meeting in Chowchilla where the League President, Judy Mitchell, discussed community involvement. She also invited the City Council to attend and participate in the June League meeting, which will be held in Lodi.

Council Member Johnson suggested holding an east side summit to discuss opportunities for funding for a variety of improvements needed on the east side of the city.

Council Member Hitchcock suggested, as a follow-up to the Council workshop on budgeting priorities, putting forward priorities for spending to the citizens by way of utility billing, Internet, or some similar fashion.

Mayor Hansen reported on his attendance at the San Joaquin Council of Governments Executive and Law and Regulatory Committee meetings. Topics of discussion included the blue print, SB 375, budget reduction of \$14.5 million, the American Recovery and Reinvestment Act, money for energy efficiency and conservation as part of the economic stimulus package, and a Northern California Power Agency team assigned to monitor funding opportunities.

- H. Comments by the City Manager on Non-Agenda Items

City Manager King reported that Friday, March 27, 2009, will be the first furlough day and most City services and facilities will be closed on that day. Mr. King also reported that the Finance

Department will be moving to the City-owned space in mid-April and dedications for the new Finance facility, Municipal Service Center transit shop, and boathouse will be occurring in the near future.

City Attorney Schwabauer reported that Mayor Pro Tempore Katakian's spouse does not have a right of referral in the sale of property located at 217 East Lockeford Street and is not receiving a referral fee.

In response to Council Member Hitchcock, Mr. Schwabauer stated that, with respect to the hearing of the State Quality Control Board, the Regional Board's Executive Officer spoke at the hearing outlining her concerns of wiping out reclamation policies and usage throughout the State as a result of the pending decision by the State Board. Mr. Schwabauer stated as a result of that testimony the State Board delayed the decision indefinitely to research in depth the application of its decision to reclamation throughout the State and the related precedent it would set.

I. Public Hearings

I-1 Public Hearing to Consider Resolution Adopting Federal Fiscal Year 2009 Program of Transit Projects (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider resolution adopting Federal Fiscal Year 2009 Program of Transit Projects.

City Manager King briefly introduced the subject matter of the program for transit projects.

Public Works Director Wally Sandelin provided a brief overview of the various transit projects as set forth in the staff report, the cost of \$2.5 million, and the expectation that the City is eligible for funding and will receive the money from the federal government.

In response to Mayor Hansen, Mr. Sandelin stated that, while there is a concern for the flow of funding for transit projects, he does not anticipate that much of a drop in comparison to other areas.

In response to Council Member Hitchcock, Mr. Sandelin stated he confirmed there is a difference between the availability of state and federal funds and as the economic times worsen, there is generally a higher demand on transit.

In response to Council Member Mounce, Mr. Sandelin stated the solar panel project will greatly reduce the power needs for the Municipal Service Center and the shop thereby reducing the costs for power.

In response to Council Member Hitchcock, Mr. King confirmed that the current action is for the federal funds process and the state funds for transit support are being reduced. Mr. King stated he is not aware of any process available to shift the funds to other needs and the City should be able to maintain the current transit system.

In response to Mayor Hansen, Mr. Sandelin stated he is confident that the City will receive the suggested funding and when the guidelines are available, the City will decide whether or not to apply for additional competitive based funding, which may be used for solar.

Council Member Hitchcock made a motion, second by Council Member Mounce, to adopt Resolution No. 2009-30 adopting the Federal Fiscal Year 2009 Program of Transit Projects.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

a) Post for Expiring Terms on the Greater Lodi Area Youth Commission (CLK)

Council Member Mounce made a motion, second by Council Member Hitchcock, to direct the City Clerk to post for the following expiring terms:

Greater Lodi Area Youth Commission

Adult Advisers:

Elizabeth Mazzeo, Term to expire May 31, 2009

Jeffrey Palmquist, Term to expire May 31, 2009

Summer Pennino, Term to expire May 31, 2009

Student Appointees:

Hannah Merrill, Term to expire May 31, 2009

Kasey Ota, Term to expire May 31, 2009

Lisa VanderHeiden, Term to expire May 31, 2009

Gordon Wong, Term to expire May 31, 2009

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Adopt Resolutions Authorizing the City Manager to Execute Professional Services Agreement with HDR, Inc., of Folsom, for Preparation of Preliminary Design and Environmental Impact Report for the Surface Water Treatment Facility (\$857,924) and Execute Second Amendment to 2003 Agreement for Purchase of Water from Woodbridge Irrigation District by the City of Lodi Permitting City to Sell a Portion of Its Banked Water and Appropriating Funds (\$987,000) (PW)

City Manager King briefly introduced the subject matter of the agreement with HDR and second amendment to an agreement with the Woodbridge Irrigation District (WID).

Public Works Director Wally Sandelin provided a presentation regarding the proposed agreement with HDR for preparation of design and an Environmental Impact Report (EIR) for the water

treatment facility and the second amendment to the agreement for the purchase of water from WID. Specific topics of discussion included a review of the two proposed actions, the actions not being related to how the plant will be funded, the need to pursue the project to become eligible for funding options, eligibility for the pre-application process, preliminary design work and California Environmental Quality Act (CEQA) review for second tier of application process, appropriation from the water fund, permission to sell the water for three consecutive years to support implementation of the plant, the availability of water, and terms of the agreement including going to the Board each year to confirm the commitment to sell each year.

In response to Council Member Mounce, Mr. Sandelin stated he expects some changes to the agreement from the attorneys; although, it will come back to the City Council if anything substantive is changed.

In response to Council Member Mounce, Mr. Sandelin stated some of the conceptual cost estimate and design phase information will be provided as a part of the March 31, 2009, Shirtsleeve presentation.

In response to Council Member Johnson, Mr. Sandelin confirmed that the \$200 figure per acre foot is a minimum for the sale of water and it could go higher.

In response to Council Member Hitchcock, Mr. Sandelin stated staff will not go out into the marketplace for the sale of the water without having permission from both the City Council and the WID Board.

In response to Council Member Hitchcock, Mr. Sandelin stated as a condition to allow the sale of the water by the WID Board, the proceeds of the sale must be put toward the water plant. Mr. Sandelin stated the current agreement does not have the ability to sell the water and delays in the process may compromise the City's position to obtain stimulus dollars and the EIR process. Mr. Sandelin stated the City may not be in a position to negotiate the revenue from the sale of the water going elsewhere other than the proposed plant.

In response to Council Member Johnson, Mr. Sandelin stated the City is contractually obligated to purchase the water from WID and since it owns the water WID would need to authorize the transfer of the water to any place other than the City if we were to sell it.

In response to Council Member Hitchcock, Mr. King stated Proposition 218 analysis may be applicable if we were to consider putting the funding toward anything else but water. Mr. King stated the proposed action is putting the City into position to have some options with respect to the stimulus money earmarked for water.

In response to Council Member Hitchcock, Mr. Schwabauer stated he doubts that there is an answer to the question of whether or not the City could use the profit from the sale of the water for anything else but the water fund because an argument could be made both ways under Proposition 218.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated that the City is going to have to do a preliminary design regardless if it is going to build the proposed plant.

Discussion ensued between Council Member Johnson, Council Member Hitchcock, and Mayor Hansen regarding the previous direction provided by Council to staff for ground water recharge versus the construction of a water treatment plant, the timing of the various decisions associated with originally purchasing the WID water, and cost comparisons for doing recharge versus constructing a new plant with and without a land purchase option.

In response to Council Member Mounce, Mr. Sandelin stated the water utility is healthy and the wastewater utility is not.

In response to Council Member Hitchcock, Mr. King stated that, according to a previous staff report, the cost for the recharge was between \$11 million and \$35 million and the cost for the direct use plant was \$29 million to \$36 million. Mr. King stated the Council has provided direction with respect to location and land was considered for the recharge option because land was needed to effectuate the recharge.

Council Member Johnson suggested Mello-Roos for new development may be an option to help pay for the water plant.

In response to Council Member Mounce, Mr. Sandelin stated the previously approved \$400,000 to HDR included the site alternatives and selection, preliminary costs for construction and operation on site, technical evaluations, environmental considerations, and well conversion. Mr. Sandelin stated that work was accepted in September 2008.

In response to Council Member Hitchcock, Mr. Sandelin confirmed that the contract to purchase the water from WID occurred in March 2003, prior to the discussion of the groundwater plant.

In response to Council Member Johnson, Mr. Sandelin stated he is not aware of any successful recharge programs in the County; although, North San Joaquin Water Conservation District has a demonstration but no water.

Ann Cerney spoke in regard to her concerns about CEQA review for the sale of water, pre-commitment of a position for CEQA purposes, and the need for the City Council to approve the ultimate sale of the water. Mr. King and Mr. Schwabauer confirmed that the action tonight is not for the sale of the water, but rather permission for the Public Works Director to market the water by contacting various agencies and gauging interest for a possible market, which may or may not exist, and the cost remains unknown. Mr. Schwabauer stated the City has a right to the water; although, when it is delivered changes upon availability. Mr. Schwabauer and Mr. Sandelin confirmed that the City has banked 6,000 acre foot per year for the last six years and there would be a CEQA action with the sale of any water.

Sundown Arnold spoke regarding his concerns about the WID having rights to the water and the 40-year term of the contract with WID.

In response to Council Member Hitchcock, Interim Community Development Director Rad Bartlam stated he is not sure of the exact time frame for a CEQA review in connection with the sale of water; although, it may be anywhere from a couple of days to a year. Mr. Schwabauer provided an overview of what environmental impacts may be considered as an example. He also confirmed that short-term water cannot be used for a CEQA analysis for water supply assessment purposes, there is an option to extend the agreement for another 40 years, and a possible sale of the water would only be for a two- to three-year period, which is short term.

Council Member Mounce stated she will not support the proposed recommendation because of the possibility of rate increases and there is no plan as to how the plant will be paid for.

Council Member Hitchcock stated she will not support the recommended action because it is premature and she would like to wait until the March 31, 2009, presentation.

In response to Mayor Hansen, Mr. Sandelin stated former Public Works Director Richard Prima learned in 2003 that before water could be injected into wells for recharge purposes, it would need to be treated to drinking water standards.

Mayor Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-31 authorizing the City Manager to execute professional services agreement with HDR, Inc., of Folsom, for preparation of preliminary design and Environmental Impact Report for the Surface Water Treatment Facility in the amount of \$857,924 and to adopt Resolution No. 2009-32 executing second amendment to 2003 agreement for purchase of water from Woodbridge Irrigation District by the City of Lodi permitting City to sell a portion of its banked water and appropriating funds in the amount of \$987,000.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Hitchcock, and Council Member Mounce

Absent: None

K-2 Discuss and Consider Several Items Related to Electric Utility Matters: (1) Adopt Resolution to Sell Surplus California Independent System Operator (CAISO) "Congestion Revenue Rights" for Lodi Electric Utility's Benefit, and (2) Receive Report Regarding Status of Market Redesign and Technology Upgrade (EUD)

City Manager King provided a brief introduction to the Market Redesign and Technology Upgrade.

Electric Utility Director George Morrow provided a presentation regarding the Market Redesign and Technology Upgrade (MRTU). Specific topics of discussion included the California Independent System Operator (CAISO), CAISO operations, MRTU, locational marginal price, regional transmission organizations, MRTU risks, market problems, congestion revenue rights, and recommended resolution for approval.

In response to Mayor Hansen, Mr. Morrow stated there is some speculation going on in the market and it is coming from banks, oil companies, and other new stakeholders that have a financial emphasis.

In response to Council Member Hitchcock, Mr. Morrow stated the proposed resolution clarifies for the Northern California Power Agency (NCPA) that it is in fact the City's managing agent for acquiring Congestion Revenue Rights (CRRs). Mr. Morrow stated NCPA is in the process of gaining similar clarification from all its members to ensure it has the right to sell surplus CRRs on behalf of its members.

In response to Council Member Mounce, Mr. Morrow stated the Lodi Energy Center is not involved with CRRs. Mr. Morrow stated the utility bought credits for emission reductions for the Lodi Energy Center, which are not the same as CRRs.

In response to Council Member Mounce, Mr. Morrow stated the reason there is a concern about MRTU is because of the risk factors set forth in the presentation including software and hardware performance, lack of competition in the market, creation of a centralized market, and overall performance of CRRs.

In response to Council Member Mounce, Mr. Morrow stated CRRs are source and non-source. He stated with the source, if the CRRs were negative, the negative value could be taken out. Mr. Morrow stated with non-source there is a surplus value based on modeling that is not needed and those are the ones for sale through surplus.

In response to Council Member Mounce, Mr. Morrow stated Roseville is stepping out because it



is fortunate in that it has a lot of direct connections with the Sacramento Municipal Utility District and the physical geographical location is close, as opposed to Lodi which has no choice given its power line connections.

In response to Mayor Pro Tempore Katzakian, Mr. Morrow stated there is no exact value for the surplus CRRs and it will be largely based on what the other side believes it to be.

In response to Council Member Hitchcock, Mr. Morrow stated this is considered to be included in the cost of power, it goes into effect in one week, there is a comfort level that Lodi is prepared and ready to go based on a conservative strategy, and because CAISO has been watching the bills so closely, a large bill is not anticipated.

In response to Council Member Johnson, Mr. Morrow stated that, while no one can predict what the future will be, he is confident that Lodi will be satisfactory if not better.

In response to Ann Cerney, Mr. Morrow stated the proposed sale is for a very small portion of the hedge that is non-sourced and is not needed.

In response to Robin Rushing, Mr. Morrow stated the impact is unknown at this time, but Lodi should be all right, and other utilities are in the same situation.

Mayor Hansen made a motion, second by Mayor Pro Tempore Katzakian, to adopt Resolution No. 2009-33 to sell surplus California Independent System Operator (CAISO) "Congestion Revenue Rights" for Lodi Electric Utility's Benefit.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Johnson

Absent: None

K-3 Adopt Resolution Approving Modification to Memorandum of Understanding for AFSCME Council 57 Local 146-AFL-CIO Maintenance and Operators Unit (CM)

City Manager King provided a brief presentation regarding the proposed resolution, which provides a term allowing for six furlough days from March to June 2009, in lieu of eliminating the deferred compensation match contribution.

In response to Council Member Mounce, Mr. King stated that, while he is not sure of the exact numbers, there is a greater savings in the proposed agreement with the current terms.

Council Member Mounce made a motion, second by Council Member Hitchcock, to adopt Resolution No. 2009-34 approving modification to Memorandum of Understanding for AFSCME Council 57 Local 146-AFL-CIO Maintenance and Operators Unit.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 10:21 p.m.

ATTEST:

Randi Johl  
City Clerk